Exhibit D

Page 1

ARBITRATION

ALFREDO SERRANO, BRIAN PATRICK THOMAS, DANIEL G. RAUPP, DEANNE HEIL, et al.,	)	
Claimants,	)	No. 22-02150 c/w/ 22-02147
vs	)	
MORGAN STANLEY,	)	
Respondent.	)	

REPORT OF PROCEEDINGS had at the arbitration in the above-entitled cause commencing on the 28th day of February, 2024, at 55 West Monroe, Suite 2600, Chicago, Illinois, at the approximate hour of 9 o'clock a.m.

BEFORE:

MARK W. SOLOCK, Arbitrator

ALLEN GREENBERG, Arbitrator

CAROLINE N. HARNEY, Arbitrator

Reported Stenographically by
Angela J. Galipeau, RPR, CSR-IL
Notary Public, State of Indiana
Job No. 6486020

APPEARANCES:

On behalf of the Claimants:

MR. SCOTT GOLDSHAW, ESQ.
MS. CHRISTEN L. CASALE, ESQ.
Salmanson Goldshaw, P.C.
1500 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19102
(215) 640-0593

MR. ALAN L. ROSCA, ESQ.
Rosca Scarlato, LLC
2000 Auburn Drive, Suite 200
Beachwood, Ohio 44122
(216) 946-7070

On behalf of the Respondent:

MS. MEAGHAN VERGOW, ESQ.
MR. ALEXANDER REED, ESQ.
MR. CHRISTOPHER HUNT, ESQ.
MR. TIMUR AKMAN-DUFFY, ESQ.
O'Melveny & Myers, LLP
1625 Eye Street, NW
Washington, DC 20006
(202) 383-5368

MR. MARK GREENFIELD, ESQ., In-House Counsel
Morgan Stanley;

ALSO PRESENT

MS. KIMBERLY GROTENRATH.

* * *

their awards?

MS. CASALE: Objection to relevance. And if I may, there's a continuing objection to this line of inquiry, but I believe Ms. VerGow listed testimony from the claimants regarding whether they themselves submitted questions regarding how the compensation plan worked. And while I maintain that that testimony was not relevant, whether other financial advisors asked questions certainly would not be.

ARBITRATOR SOLOCK: Well, relevancy has a very low standard. So that objection will be overruled, and you may answer the question. Do you need the question repeated?

THE WITNESS: Yes, please.

BY MS. VERGOW:

Q. I believe the question was did you receive any questions from financial advisors who expressed confusion about how the vesting and cancellation terms of these awards worked.

A. I don't recall having anything that made it to me in terms of vesting schedules and what are they, and we certainly had opinions about deferred compensation, but [inaudible].

Q. Okay. And based on your interactions with the field and your interactions with advisors and branch managers and these councils and so on, did you form any impressions about whether financial advisors at Morgan Stanley

genuinely understood how this deferred compensation works?

A. Advisors understood how deferred compensation works, yes. Again, not something specific to just Morgan Stanley. Plenty of other firms actually have deferred compensation as well. So it was very widely understood.

Q. All right. Let's dig a little more deeply into the plan's purposes. At a high level again, what are the primary purposes of the deferred compensation awards to financial advisors?

A. We're incenting for advisors to stay at the firm, and we're incenting advisors for good guardianship, professional and ethical standard.

Q. And what are the mechanisms by which you're able to enforce those incentives?

A. So we have the cancellation terms we've talked about. So if you're in the vesting period, they don't uphold those two standards, then we have a right to cancel. We do also have described in the policy something described as a clawback, which is even after the award has been granted, and then the vesting period has ended, we have some right to be able to pull that back off after the fact.

Q. Why is retaining advisors so important to Morgan Stanley?

A. If you're retaining advisors, you're retaining talent, retaining revenue generation, retaining assets and relationships of clients. It's incredibly important to us

that we are building a franchise. We have shareholders. Therefore, we want to retain our advisors.

Q. And why was it important to Morgan Stanley to promote good guardianship?

A. Good guardianship has a number of aspects, right? So just culture of a firm and how we all work together. We have regulatory bodies that are also looking at us and working with us as to how we maintain our professional standards. So it was incredibly important that we had these tools -- have these tools.

Q. Did you form any impressions while you were the head of OBM about whether promoting these practices benefits financial advisors as well?

A. So the benefit to advisors, they have compensation at the end of the vesting schedules, right? So this is still compensation to them ultimately at the end. In terms of retention, yes, we believe that we are a franchise that could build practices, help them. Therefore, we believe there's a benefit in staying and being good actors.

Q. All things being equal, a financial advisor would like to be affiliated with a strong brand?

A. Yeah. We believe we have a strong brand, and we believe advisors want to orient to that.

Q. Morgan Stanley maintains a code of conduct?

A. We do. We have an employee code of conduct. So every

year, every employee has to sign up for the employee code of conduct.
Q. And what does that set out at a high level?
A. Again, the professional and ethical standards we're held to.
Q. And I think you mentioned Morgan Stanley regulators.
A. Correct.
Q. Did you participate in discussions with regulators where they expressed to you an interest in good guardianship?
A. I worked directly with many regulatory bodies, and deferred compensation and incentive compensation overall was the core part of my conversation with them.
Q. Can you identify the regulators you discussed this with?
A. So we've worked with FINRA, OCC, SEC, Federal Reserve. We've spent time with a lot of regulatory bodies.
Q. And what was your understanding of these regulators' role in enforcing good guardianship at Morgan Stanley?
A. So my conversations less maybe about enforcement, more about how do you build policy, how do you build practice that is going to not over-incent towards bad behaviors, but also making sure we have the catch if there were to be bad actors. So there's always this balancing act with our regulatory bodies, understanding what is the best path forward. And obviously some of that was leaving us with recourse if we needed to.

Q. And what do you recall from your discussions with those regulators about what they wanted to understand about how compensation was incentivizing good conduct or perhaps incentivizing bad conduct?
A. So, again, this aspect of what controls do we have and then what happens should we trigger those controls, and we discovered something that's not with the standard we thought, what recourse do we have. And deferred compensation was definitely a key part of the topic.
Q. Was this one conversation or many?
A. Many. Over the years, we had an open dialogue with many of our regulatory bodies about what we were doing with policy design and staying the course with our agreed discussions.
Q. And did you specifically discuss the cancellation provisions of these awards in these discussions?
A. Very much so. Early on, as they were getting more familiar in my tenure with those policies, we went into some depth about what those conditions were. And then over the years, it was more of a how things changed; are you thinking about changing. So that was kind of the nature of the time.
Q. And you mentioned the Fed was one of the regulatory bodies you interacted with?
A. That's correct, yes.

Q. At a general level, what's the Fed's regulatory -- I'm sorry. What is the Fed? I'm using shorthand. What's the Fed?
A. Federal Reserve.
Q. Okay. And what is the Federal Reserve's regulatory relationship with Morgan Stanley?
A. Can you clarify the question?
Q. How does -- what regulatory responsibility does the Fed have in your understanding with respect to Morgan Stanley?
A. So, I mean, a number of aspects. More particularly through the area I was attuned to, wanted to make sure, again, these general acts of good guardianship over time, and that we weren't over-incenting for malbehavior.
Q. And the Fed would conduct periodic exams --
A. That's correct, yes.
Q. -- of Morgan Stanley?
Okay. And you discussed the cancellation with the Fed?
A. Absolutely, yes.
Q. I'm going to show you an e-mail that is at tab 2 of your binder. This is an e-mail between you and someone named Carla Lien on September 21, 2015.
A. That's correct.
Q. Who is Carla Lien?
A. She was in the admin office for the head of field

management at the time.
Q. Okay. And can you explain what you were discussing with Ms. Lien in this e-mail?
A. So you will find on these two pages a summary of our controls and a high-level summary where it's relevant to guardianship from our -- both our branch manager and our advisor compensation policies.
Q. Let me take a step back. The subject line is "Fed Deck, Revised Comp page." So what is this that we're looking at on this page?
A. My assumption from this is that this was head of field management sitting in front of the Fed to describe the summary points we have here around guardianship and what we do to uphold standards.
Q. Is this a slide that you prepared?
A. This was a slide that my team would have prepared, yes.
Q. Okay. For a presentation to the Fed?
A. Correct.
Q. Okay. And looking in the section titled "Incentives" on that first page, can you read the second bullet and its sub bullets, please, starting with "Advisor Incentive Compensation"?
A. So, "Advisor incentive compensation includes several misconduct provisions." Three sub bullets: "Prospective compensation adjustments where grid rates may be adjusted

downward at management discretion based on advisor conduct. Factors considered include significant trade errors, excessive customer complaints, regulatory or other ethical lapses, or other conduct determined to be contrary to the best interests of clients or the firm."

Next bullet, "Withholding compensation/awards"; thirdly, "Cancellation and/or clawback of deferred compensation."

Q. Why was your team at OBM involved in preparing this material for the discussion with the Fed?

A. We owned these aspects of policy design and, therefore, we're the subject matter experts to offer this.

Q. You mentioned this earlier, I think. But can you explain briefly the difference between "cancellation" and "clawback"?

A. "Cancellation" is something that would be triggered during the vesting period. So during the X amount of years, we would cancel out award for any of these triggers. "Clawback," you grant the award. It vests over the period of time. You discover activity after the fact, after the vesting date, and we are leaving ourselves the right to be able to ask for that money back.

Q. As an enforcement mechanism, is one more effective than the other?

A. Cancellation is vastly more effective than asking for

someone -- asking for the money back afterwards.
Q. And why did you consider it important to communicate to the Fed that you had these provisions in your awards?
A. We know that they would want to stress test the scenario of discovering bad actors and want to understand what recourse we had at our disposal to ensure we could exact penalties.
Q. This e-mail is from September 21, 2015, right?
A. Correct.
Q. I'd like you to flip to tab 3 in your binder. This is an e-mail from September 30, 2015.
A. Correct.
Q. And take a minute to get acquainted, but this is an e-mail chain involving Ms. Lien again, and you and Mr. Porco, who you mentioned before, right?
A. Correct.
Q. And then on the chain, a little bit lower are Mr. Barry Goldstein, Larry Frers, and others?
A. Correct.
Q. Who was Mr. Goldstein?
A. He was my direct manager at the time.
Q. Okay. And who was Larry Frers?
A. He was, I believe, head of either field management or wealth management HR.
Q. And in this e-mail on this first page, there's a Ms. Laura

Southerland. Who is she?
A. She works within the HR department.
Q. Can you explain what Ms. Southerland is communicating to Barry, you, and others in this e-mail?
A. So this is -- looks like a follow-up, and they are looking for details of how many employees and to what financial extents we have triggered cancellation.
Q. And was that information identified?
A. Correct. At the bottom of this first page, you'll see both in 2014, full year, and for 2015, I guess year-to-date at that point.
Q. And what was the information that you -- that your team found for 2014?
A. So we had 24 wealth management employees where we triggered these cancellation terms.
Q. And how much in invested deferred compensation awards were canceled?
A. It amounted to $6-and-a-half million.
Q. And in 2015?
A. 2015, we were up to 13 employees with $2.8 million.
Q. And once again, what was your understanding of why the Fed wanted you to provide this information?
A. They wanted to know that we not only had the policy, but we were actually acting on that policy and, therefore, wanted to see these stats.

ARBITRATOR SOLOCK: Excuse me. What does "OCC" stand for?

THE WITNESS: I can't remember off the top of my head, but I know it was more oriented to our bank activities.

ARBITRATOR GREENBERG: Options Clearing Corporation.

MS. VERGOW: I think in this instance, it's the Office of the Comptroller of the Currency. But there are many OCCs.

BY MS. VERGOW:

Q. So what's the SEC? It's a test.

A. Security Exchange Commission.

ARBITRATOR SOLOCK: And what is FINRA? Just kidding.

BY MS. VERGOW:

Q. Do you have any understanding based on your interactions with those regulators whether Morgan Stanley could just elect to remove the cancellation provision from its deferred compensation awards?

A. Could we just extract it from policy? Yes. Would we face a lot of scrutiny for doing so and removing the recourse and controls? Absolutely. And it would break down the trust we had with regulators and what we're trying to design around the compensation policy. So I would argue

no, you wouldn't be able to do this as simply.

Q. Okay. All right. Let's shift gears. I'd like to walk through the process you used to develop the financial advisor compensation claim every year, and we're going to use a demonstrative to help us walk through it.

So in very broad strokes, what did that process look like -- actually, let me not ask in broad strokes. Let's start at the beginning. How did the process start?

A. So we start an entire year before the policy -- in this case 2015, the policy is effective. As we are delivering this case, the 2014 policy, we start getting feedback immediately. So we're communicating heavily. It's very much topical. So we're gathering feedback at that point.

For the first call it six months of the -- of the 2014 period here, we are gathering a range of options. Some of those are strategic in nature. Some of them are just purely feedback from our advisors and managers. But we've effectively built a menu of options that we could build into the 2015 policy. By the time we hit the summer period, so mid 2015, we are starting to sit down in front of senior management. We start to understand more about budgets, strategy of what next year looks like.

And that's when we start to hone this list. We start to take the large menu and start to make it into what we would think of as a policy proposal, and that leads us

the term sheets.
Q. And why not just include all of it in this?
A. This is a lengthy guide already. We make a decision about what is relevant to be in here, pertinent to the incentive nature we're trying to drive, versus what is important terms and conditions of the award being granted.
Q. All right. Mr. Kemp, I'd like to shift now to certain exceptions that Morgan Stanley has adopted to cancellation. You're familiar with those exceptions?
A. I am, yes.
Q. And what are they?
A. So death, disability, term not for cause, and then we have time --
Q. And then government service exception is not listed here?
A. Yes.
Q. How often is that used?
A. I can recall it once being used.
Q. Okay. Do you have an understanding of why Morgan Stanley has adopted those exceptions to cancellation?
A. These are humane kind of considerations. We don't think it would be fair and ethical if someone were to pass that we would just cancel their deferred awards; and, therefore, we provide an exception to it.
Q. And does allowing these exceptions to cancellation detract from the purposes of the award in any way? Does it

detract from the retention or the good guardianship purpose?

A. No. These are, again, humane aspects. They do not affect the incentive that we've set up.

Q. And we addressed this before. But this includes an exception for retirement. Does Morgan Stanley want its advisors to stay until they retire?

A. We do, yes.

Q. Why is that?

A. We want them to accumulate revenue, clients, assets. We want talent inside of the Morgan Stanley brand. We want them to see their careers through to retirement at Morgan Stanley.

Q. All right. Let's talk about how these elements of financial advisor compensation stack up next to each other. Let's look at tab 6 of your binder. This is Respondent's Exhibit 53, and I'd like you to look at page Bates stamp 77408. What is this?

A. This is a summary document highlighting compensation through wealth management.

Q. And who prepared this slide?

A. This is my team.

Q. And let's walk through this. So this shows total compensation expenses for financial advisors?

A. This goes beyond financial advisors as well.

period of four years or greater; do you recall?
A. Always greater than four years, from my recollection.
Q. Okay. And do you recall any competitor that didn't employ cancellation terms in their deferred compensation awards?
A. Cancellation terms were always part of the programs.
Q. Okay. Mr. Kemp, in Ms. Casale's cross, she asked you some questions about whether regulators have expressed any interest or concern to you about discouraging advisor mobility. Do you remember that?
A. I do, yes.
Q. And I think in your answer, you alluded to the fact that this actually had come up in conversations with regulators, that they did express a concern to you about encouraging advisors to stay, fair?
A. Yes. The interest from the regulators was that deferred compensation and the guardianship aspect of it, if advisors have moved firms, we lose the ability to have recourse to bad behavior. So not that they wanted and mandated everyone stay in the firm they're employed, but we needed to be able to show that we had limited measure if people were to move.
Q. Did the regulators have any interest in the potential implication for client fees when advisors moved from one firm to another?
A. It would certainly come up as a discussion in terms of

moving between firms and changing how clients were being charged for similar services.

Q. And what about tax implications for clients? Did that come up in your discussions with regulators as a downside when advisors moved from firm to firm?

A. It would come up in discussion for sure.

Q. Fair to say the regulators' chief concern is the guardianship of customers, right?

A. Absolutely.

Q. On her examination of you, Ms. Casale also reviewed a couple documents that I'd like to return to briefly with apologies that they're in this giant joint exhibit binder. I'm going to go with you to Joint Exhibit 6 and 70, just very briefly.

All right. So looking at Joint Exhibit 6, you recognize this as the plan document for the Morgan Stanley compensation incentive plan; is that right?

A. It's one of the versions, yes.

Q. And so this is a plan document for the umbrella plan under which deferred compensation awards of all stripes are issued under Morgan Stanley?

A. That's correct.

Q. So Ted Pick's deferred compensation could be -- the Morgan Stanley CEO's compensation could be issued under this?

A. This is not exclusive to advisors as governing the